

Art” legend. The specification has been amended to include updated related case information as reflected in Exhibit A.

The Office Action states that the pending claims are based on new matter and thus are not entitled to the filing date of the Matheson ‘413 patent. As such, the 102(b) rejection of Claims 1, 8-9 and 18 is improper as the claims cannot be rejected by a reference which does not contain disclosure of the claimed limitations. Note that the present application claims the priority date of Matheson ‘413, and thus if Matheson ‘413 discloses the claimed limitations, then the claims are entitled to the filing date of Matheson ‘413 and the parent is not prior art with respect to the claimed limitations. Reconsideration and allowance of Claims 1, 8-9 and 18 is solicited.

Claims 2-7 and 12-16 are rejected as obvious over Matheson ‘413 in view of Libby. Claims 2-7 ultimately depend from Claim 1 and are therefore allowable with Claim 1 without recourse to the further patentable limitations respectively recited therein.

Claims 10-12 ultimately depend from Claim 8 and are therefore allowable with Claim 8 without recourse to the further patentable limitations respectively recited therein.

Claim 13 was rejected as obvious over Matheson in view of Libby.

Libby discloses a method for route planning of a satellite. The route is determined by selecting available targets for the satellite using a priority hierarchy. Libby discloses a simplistic prioritization system whereby targets are selected based upon parameters specific to the individual target, i.e., value distance and time. Note that Libby teaches that it is not desirable to evaluate the impact of target selection on the global solution which results in an improvement of the computational efficiency of the satellite route planning. For example, Libby expressly describes that it is not necessary to evaluate the

impact of a selected target, i.e., “Due to the application of global restraints in step 204, **there is no need to test the selected target sequence to see that it satisfies the global constraints, nor is there any need to reiterate the target sequence selection process so as to select a ‘better target sequence’**”. (Col. 11, lines 63-67). Thus, Libby’s disclosure that a more computationally efficient method of satellite route planning can be achieved by eliminating post selection evaluation expressly teaches away from both Matheson, which teaches post selection evaluation, and applicant’s system which discloses a post selection evaluation of the resource exception and costs against a predetermined criteria as a function of the classification of the problem. Clearly the combination of Libby and Matheson is improper and cannot provide the basis for the modification of the prior art suggested by the Office Action. Reconsideration of Claim 13 is solicited.

Claims 14-16 ultimately depend from Claim 13 and are therefore allowable with Claim 13 without recourse to the further patentable limitations respectively recited therein.

Claims 17 and 19 are rejected as obvious over Matheson.

With respect to Claim 17, there is no disclosure in Matheson of the desirability of limiting the total resource exception as a function of the total unopposed trip time, let alone a specific portion of the total unopposed trip time. While Matheson does teach that the energy function gives more emphasis to the most critical resources, applicant’s claimed method of evaluating specific parameters is neither taught nor suggested by Matheson. Rather, the rejection is based upon a hindsight application of the applicant’s disclosure. Reconsideration and allowance of Claim 17 is solicited.

Likewise, with respect to Claim 19, Matheson's disclosure that the energy function gives more emphasis to the most critical resources, does not teach or suggest a method of providing a target resource and weighting evaluations of subsequent moves on the resource exception and cost as a function of the departure of the resource exception from the target. Reconsideration and allowance of Claim 19 is solicited.

Applicant respectfully requests reconsideration and allowance of all claims.

Respectfully submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of Michael S. Crone

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Title: COST REACTIVE RESOURCE SCHEDULER AND METHOD

EXHIBIT A

In the Specification:

This application is a continuation-in-part application of Application Serial No. 09/129,863 filed August 6, 1998, now U.S. Patent No. 6,154,735 , which is a divisional application of Serial No. 08/787,168 filed January 23, 1997, now U.S. Patent No. 5,794,172, which is a divisional application of Serial No. 299,271 filed September 1, 1994, now U.S. Patent No. 5,623,413.